

Client Docket No.: DIBIS-0002US.P3

Attorney Docket No.: ISIS-10450

In re Application of: David J. Ecker *et al.*

Serial No.: 10,660, 122

Group No.: 1637

Filed: 09/11/2003

Examiner: A. M. Bertagna

Entitled: **Methods for Rapid Identification of Pathogens in Humans and Animals**

TERMINAL DISCLAIMER

EFS Web Filed

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

I, David A. Casimir, represent that I am an attorney of record for this invention.

The Assignee, Ibis Biosciences Inc., 1896 Rutherford Road, Carlsbad, California, 92008 is the owner of a one-hundred percent (100%) interest in the instant application. The assignment from the inventors to Isis Pharmaceuticals was recorded on February 6, 2004 in the Patent and Trademark Office at Reel **014315**, Frame **0162**, and from Isis Pharmaceuticals to Ibis Biosciences, Inc. on August 14, 2007, at Reel **019690**, Frame **0036**.

Petitioner hereby disclaims, except as provided below, the terminal part of the

statutory term of any patent granted on the instant application, which would extend

beyond the expiration date of the full statutory term defined in 35 U.S.C. §§154 to 156

and 173 of prior Patent No. 7,312,036, and hereby agrees that any patent so granted on

the above-identified instant application shall be enforceable only for and during such

period that the legal title to said patent be the same as the legal title to the above

referenced patent, this agreement to run with any patent granted on the above-identified

instant application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of

any patent granted on the instant application that would extend to the expiration date of

the full statutory term as defined in 35 U.S.C. §§154 to 156 and 173, as presently

shortened by any terminal disclaimer, in the event that Patent No. 7,337,575 should expire for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321, has all claims cancelled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its full statutory term.

Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§154 to 156 and 173 of any patent granted on pending U.S. Patent Application Nos. 11/869,449 filed on October 9, 2007, 11/331,987 filed on January 3, 2006, 10/728,486 filed on December 5, 2003, 11/929,910 filed on October 30, 2007, 11/929,930 filed on October 30, 2007, 11/930,108 filed on October 31, 2007, 11/930,017 filed on October 30, 2007, 11/930,002 filed on October 30, 2007 and 11/929,707 filed on October 30, 2007. The owner hereby agrees that any patent so granted on the above-identified instant application shall be enforceable only for and during such period that it and any patent granted on the second applications are commonly owned, this agreement to run with any patent granted on the above-identified instant application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimers, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§154 to 156 and 173 of any patent granted on U.S. Patent Application Nos. 11/869,449, 11/331,987, 10/728,486, 11/929,910, 11/929,930, 11/930,108, 11/930,017, 11/930,002 and 11/929,707, as presently shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent should expire for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner otherwise terminated prior to the expiration of its full statutory term.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title

18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The undersigned is empowered to act on behalf of the assignee.

Dated: June 23, 2009

/David A. Casimir/

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